

IDAHO BOARD OF ACUPUNCTURE
Bureau of Occupational Licenses
700 West State Street, P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 4/29/2016

BOARD MEMBERS PRESENT: Charles W Raymond - Chair
Marlene F Strong
Sara C Rodgers
Naomi L Jankowitz-Brownson

BOARD MEMBERS ABSENT: Ethan S Fisher

BUREAU STAFF: Tana Cory, Bureau Chief
Dawn Hall, Administrative Support Manager
Maurie Ellsworth, General Counsel
Mitchell Toryanski, Legal Counsel
Deborah Sexton, Management Assistant
Erin Anderson, Technical Records Specialist I

The meeting was called to order at 1:00 PM MDT by Charles W Raymond.

APPROVAL OF MINUTES

Ms. Rodgers made a motion to approve the minutes of 1/15/2016. It was seconded by Ms. Jankowitz-Brownson. Motion carried.

LEGISLATIVE REPORT

Mr. Toryanski gave the update and said that in response to the U.S. Supreme Court case North Carolina Board of Dental Examiners v. Federal Trade Commission, the Governor's proposed legislation passed and goes into effect July 1, 2016. It does the following: 1. Allows the Governor to consider recommendations made by associations or any individuals residing in the state and allows him to appoint any qualified individual to Idaho boards; 2. Provides that all board members serve at the Governor's pleasure; and 3. Provides for at least one consumer member on every board. These changes were made to Idaho Code 54-4704.

Mr. Toryanski discussed with the Board the rule changes made to Rule 301 and Rule 305. He informed the Board that these rules had passed and were in effect. Rule 301 requires those applying for reinstatement to submit 1 (one) year of CE for licenses expired for one year or less and 2 (two) years of CE for those expired more than one year. Rule 305 will allow a licensee to receive 1 (one) hour of CE for every 2 (two) hours of teaching a class.

Ms. Cory reminded the Board that any law change proposals would need to be submitted by August 1, and any proposed rule changes would need to be submitted by the third week of August to the Governor's Office for the 2017 Legislature.

FINANCIAL REPORT

Ms. Hall gave the financial report, which indicated that the Board had a cash balance of \$116,149.16 as of 3/31/2016.

OLD BUSINESS

To Do List – The Board reviewed the to-do list. No action was taken.

NEW BUSINESS

RENEWAL/REINSTATEMENT APPLICATION

Ms. Hall presented to the Board the renewal application. She stated that the renewal application appeared to be accurate in reference to the recent rule changes. Ms. Hall requested the Board review the renewal application for accuracy.

Ms. Hall directed the Board to the section of the renewal application that discloses the requirement of Rule 500, Use of Business Name or Trade Name. She said the Bureau and Board have not been collecting the data. The Board discussed deleting Rule 500. Ms. Jankowitz-Brownson made a motion to delete Rule 500. It was seconded by Ms. Rodgers. Motion carried. Mr. Toryanski was directed to draft a proposed rule to strike Rule 500 and present it to the Board at its next meeting.

Ms. Hall provided the Board with copies of the reinstatement application. After review, the Board determined that the reinstatement application should reflect the changes to Rule 301 and Rule 305.

Ms. Rodgers made a motion that the Bureau update the reinstatement application and have the Board Chair review it. It was seconded by Ms. Jankowitz-Brownson. Motion carried.

CHAIR MEETING REVIEW

The Chair reported that he met with the Chair of the Physical Therapy Licensure Board and the Chair of the Idaho Board of Chiropractic Physicians regarding dry needling. The Chairs discussed that dry needling is not part of the Chiropractors' or the Physical Therapists' practice act. Any change to a profession's scope of

practice would be up to the profession's association to work on with the Legislature.

FILIFORM NEEDLES/DRY NEEDLING

Ms. Rogers gave her findings on the sale of Filiform Needles which are used for dry needling.

Mr. Ellsworth stated that the labeling of Filiform Needles is under the jurisdiction of the Federal Drug Administration. The Board does not have any jurisdiction over the labeling or sale of the needles. The Board has authority to regulate the practice of Acupuncture and the licensure of Acupuncturists. Maurie expressed that the Board's jurisdiction is limited to the definition of acupuncture as provided by the Idaho Code.

UNLICENSED PRACTICE

Ms. Cory explained the current disciplinary process. When a complaint is filed, it is reviewed to determine if the respondent holds an acupuncture license or certification. If they are not licensed, they would be notified of their requirement to be licensed or certified. Mr. Ellsworth informed the Board that jurisdiction of unlicensed practice is in the county prosecutor who could prosecute the individual for a misdemeanor. The respondent could receive a maximum of 6 months in a jail and up to a \$1000.00 fine. The Board can refer unlicensed practice complaints to the county prosecutor.

CORRESPONDENCE

The Board reviewed correspondence that had been submitted by Ms. Maria Morris. Ms. Morris stated that certain healthcare providers such as physicians or chiropractors are able to prescribe supplements and Chinese herbal patent formulas to their patients without charging sales tax. She stated that she was able to prescribe Chinese Herbal patent formulas, but her patients are required to pay sales tax. Ms. Morris asked if the Board would support a statute change that would exempt acupuncturists' patients from sales tax when they are purchasing Chinese herbal patent formulas. After discussion the Board determined that Ms. Morris' request for a law change should be directed to the association. The Board instructed Ms. Anderson to write a letter to Ms. Morris referring her to the association.

WEB UPDATES

Ms. Hall presented proposed web updates to incorporate the additions to Rule 301 and 305. Ms. Rodgers made a motion to approve the changes and post them to the Board's web page. It was seconded by Ms. Jankowitz-Brownson. Motion carried.

OTHER

Ms. Anderson asked the Board how long an approved continuing education course was valid. Currently there is no statute that states a time frame. Ms. Jankowitz-Brownson made a motion to authorize herself to research the question, and report her findings back to the Board. It was seconded by Ms. Rodgers. Motion carried.

The Board reviewed the suggested changes to the coversheet for audits and CE for reinstatements. The Board provided additional changes to the Bureau. The Bureau will make these changes and present back to the Board at its next scheduled meeting.

EXECUTIVE SESSION

Ms. Rodgers made a motion that the Board go into executive session under Idaho Code § 74-206(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the Executive Session was to consider license application materials. It was seconded by Ms. Jankowitz-Brownson. The vote was: Ms. Jankowitz-Brownson, aye; Ms. Rodgers, aye; Mr. Raymond, aye; and Ms. Strong, aye. Motion carried.

Ms. Rodgers made a motion to come out of executive session. It was seconded by Ms. Jankowitz-Brownson. The vote was: Ms. Jankowitz-Brownson, aye; Ms. Rodgers, aye; Mr. Raymond, aye; and Ms. Strong, aye. Motion carried.

APPLICATIONS

Ms. Rodgers made a motion to approve the following applicants for licensure pending receipt of additional items and Chair review:

#901144452
#901143799

It was seconded by Ms. Jankowitz-Brownson. Motion carried.
Ms. Rodgers made a motion to approve the following for licensure:

ACU-322 Laura Lambert
ACU-323 Stephanie Lyon
It was seconded by Ms. Strong. Motion carried.

CE COURSES

Ms. Rodgers made a motion to approve the following continuing education course for Category I CE for ten hours:

Diamond Qigong for Breast & Prostate Health

It was seconded by Ms. Jankowitz-Brownson. Motion carried.

CONTINUING EDUCATION AUDITS AND REINSTATEMENTS

The Board members reviewed CE audits and reinstatements. Ms. Anderson was given direction to follow up with any licensees on questions the Board had.

NEXT MEETING was scheduled for 8/12/2016 1:00 PM MDT.

ADJOURNMENT

Ms. Jankowitz-Brownson made a motion to adjourn the meeting at 4:35 PM MDT. It was seconded by Ms. Strong. Motion carried.

Charles W Raymond, Chair

Marlene F Strong

Sara C Rodgers

Naomi L Jankowitz-Brownson

Ethan S Fisher

Tana Cory, Bureau Chief